



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/594,666

09/28/2006

Geoffrey George Campbell

3638-896 (AMK)

2311

23117 7590 11/24/2009
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER

CAHN, DANIEL P

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

11/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/594,666	Applicant(s) CAMPBELL ET AL.	
	Examiner DANIEL CAHN	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 3,7-16,19,22 and 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,17,18,20,21 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 September 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continuing Data

Acknowledgement of the 371 of PCT claiming benefit of 60/565524 dating to 04/27/2004 has been made and the document has been received and filed.

Information Disclosure Statement

The information disclosure statement has been received and a copy has been placed in the file.

Lack of Unity

Claims 7-12, 14-16 and 22, 23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 09/09/2009. The applicant has therefore elected Species 3, drawn solely to Fig.'s 13 and 19. Examiner is further withdrawing applicants elected claims of 3, 13 and 19 for not being drawn to the elected Species. Nowhere in the specification does it refer to Fig. 13 and 19 and mention or depicted foldable rails or a telescoping mast. Therefore claims 1, 2, 4-6, 17, 18, 20, 21 and 24 are hereinafter the claims to be examined.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, for Fig. 19, all features must be shown or indicated or the feature(s) canceled from the claim(s). A few examples (but not limited to just these examples) include details of the lift system being coupled between the work platform and the mast, a support surface, safety railing, an

optional power pack and any other feature not shown or indicated in Fig. 13 or 19. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: the specification does not provide support for the phrase “wherein the independent components are interchangeable with like components such that the mast lift comprises a modular construction” in the claims nor does it provide support to describe in detail the connections involved (for example between the Weston-type hoist gear/brake and how

it is connected to the mast and platform) with how the lift system for Fig. 19 actually lifts the platform on the mast.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 20 and 24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claim 20, the phrase “wherein the independent components are interchangeable with like components such that the mast lift comprises a modular construction” is not supported in the specification regarding Fig. 19 in such a way that the examiner understands how make or use the invention by the applicant. Where does the specification state this about Fig. 19? Moreover, the Fig. shows no way in which to interchange parts without completely sawing or removing parts in an unreasonable manner. Are there removable pins or sockets or tube fitting which can interchange with other parts? How do these parts interlock and what or where are the other “like components” in which one is meant to interchange?

Regarding claims 1, 20 and 24, the specification does not provide support to describe in detail the connections involved (for example between the Weston-type hoist gear/brake and how it is connected to the mast and platform) with how the lift system for Fig. 19 actually lifts the platform on the mast.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 20,

- it is unclear in line whether “a stand” and “a platform lifting system” are included as part of the "base unit" or just part of the independent components. The way it is worded it could be -a base unit including a mast, the base unit also including a stand and the base unit also including a platform lifting system-, or it could be interpreted as -the independent components comprising a stand, a platform and a base unit including a mast."
- the phrase "interchangeable with like components" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

- the phrase in line 7, “wherein the independent components are interchangeable with like components such that the mast lift comprises a modular construction” is unclear regarding the modular construction. Is it the interchangeable parts that create the modular construction or just the wheels on the bottom that make it modular. It is unclear as to what makes the mast modular.
- in line 5, the term “an optional power source” is misleading and unclear since it is hard to establish/determine whether this is optional to have in the mast lift for personnel and that its not being positively recited or whether it is a type of power pack. It is further unclear, simply because the term power pack could be anything that provides power, right?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20 and 24 rejected under 35 U.S.C. 102(b) as being anticipated by Thevenot (US 3752263).

Regarding claim 20, Thevenot teaches a **mast lift** (Fig. 1) **for personnel configurable** [capable of being configured] **with a plurality of independent components, the independent components comprising:**

a base unit including a mast (the vertical framework, 14), **a stand** (11,12; Fig. 4) **and a platform lifting system** (Fig. 5);

a personnel work platform (18; Fig. 1 or 2) **attachable** [capable of being attached] **to the base unit; and**

an optional power pack (as seen by motor 27; examiner reinforces that the word "optional" makes it unclear whether this is being positively recited and is even a necessary component in the claims) **engageable** [able to engage] **with the platform lifting system** (as depicted in Fig.'s), **wherein the mast lift is a portable stand-alone unit, either free-standing or supportable** [capable of being supported] **against a support surface** (such as a floor), **and wherein the independent components are interchangeable** [capable of interchanging] **with like components such that the mast lift comprises a modular construction.** The examiner notes that the system of Thevenot is capable of being worked on and removing and welding parts to replace others as an example of one way it could be able to interchange components. It is further noted that these are not positively recited and that it must be capable of doing these things such as engaging with the platform lifting system, supporting against a support surface and interchanging components in order to have a modular construction.

Regarding claim 24, Thevenot teaches **a portable platform lifting machine** (Fig. 1) **comprising a base unit having a mast** (the vertical framework, 14) **and a platform lifting system** (depicted in Fig. 5), **and a personnel work platform** (18; Fig. 1 or 2) **that is raised and lowered on the mast by the lifting system, wherein the lifting machine is transportable** [capable of being transported] **and operable** [able to

Art Unit: 3634

operate] **by a single user as a stand-alone unit, and wherein the lifting machine is supported in use at two support points** (as seen, the system is supported in a multitude of support points, as an example the wheels).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-6, 17, 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thevenot (US 3752263).

Regarding claim 1, Thevenot teaches **a mast lift for personnel comprising:**

a mast (the vertical framework, 14; Fig. 1);

a personnel work platform (18; Fig. 1 or 2) **movably secured to the mast** (as depicted in Fig. 5); **and a lift system** (Fig. 5) **coupled between the work platform and the mast, the lift system effecting raising and lowering of the work platform on the mast, wherein the mast lift is a portable stand-alone unit** (as seen by the wheels 13; Fig. 1 or 2), **either free-standing or supportable** [capable of being supported] **against a support surface** (such as a ground/floor).

All of the elements of the instant invention are discussed in detail above except providing the machine weight of the mast lift as less than 200 pounds. However, attention shall be drawn to the fact that it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the machine weight of the mast

Art Unit: 3634

lift as less than 200 pounds since discovering an optimum weight would have been a mere design consideration based on the characteristics of how easily one would want it to be to move around the mast lift. Such a modification would have involved only routine skill in the art to accommodate different weight requirements depending on the desired characteristics of the mast. It has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Examiner further notes that it would have been obvious to one of ordinary skill in the art at the time of the invention to have made the mast as light as possible simply to make its transport easier. It is not a novel concept or an inventive idea to make a modular item lighter or to use lighter or less material in order to make the modular item easier to move.

Regarding claim 2, **the work platform comprises a safety rail (22; Fig. 2) at least partially about its perimeter.**

Regarding claim 4, **the lift system is coupleable** [capable of being coupled] **with a power source** (as seen by the motor 27 in Fig. 2).

Regarding claims 5 and 6, examiner takes Official Notice that it would have been obvious to one of ordinary skill in the art at the time of the invention to have substituted the motor used Thevenot with a different type of power source such as a battery pack or hand-held drill since it is well known for any power source to be substituted for another to accomplish the same goal or outcome.

Regarding claims 17, 18 and 21, all of the elements of the instant invention are discussed in detail above except providing the machine weight of the mast lift as less than 120, 150 or 200 pounds. However, attention shall be drawn to the fact that it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the machine weight of the mast lift as less than 120, 150 or 200 pounds since discovering an optimum weight would have been a mere design consideration based on the characteristics of how easily one would want it to be to move around the mast lift. Such a modification would have involved only routine skill in the art to accommodate different weight requirements depending on the desired characteristics of the mast. It has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Examiner further notes that it would have been obvious to one of ordinary skill in the art at the time of the invention to have made the mast as light as possible simply to make its transport easier. It is not a novel concept or an inventive idea to make a modular item lighter or to use lighter or less material in order to make the modular item easier to move.

Claims 5 and 6 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Thevenot as applied to claim 4 above, and further in view of Martin (US 5522583).

Regarding claims 5 and 6, all of the elements of the instant invention are discussed in detail above except providing that **the power source comprise of a battery pack or hand-held drill**. Attention is therefore directed toward Martin which

Art Unit: 3634

teaches a similar user operated power driven element (in this case a jack or lift) which has a drive motor that can be an electric drill with chuck removed and the eccentric carrying shaft substituted, with an intrinsic rechargeable battery (battery pack). It would have been obvious to one of ordinary skill in the art at the time of the invention to have been substituted the user operated motor of Thevenot with a user operated power source such as a hand held drill having a battery pack or a batter pack in order to provide the user with multiple options and means in which to drive a driveable elements such as a moveable work platform.

2

mounting the power delivery mechanism on the original jack. Jacks of different capacities are often best served by frames of different configurations. The drive motor can be an electric drill with chuck removed and the eccentric carrying
5 shaft substituted, with in intrinsic rechargeable battery or power supply cord, but the arrangement shown is preferred. The electric motor and gear box combination is known as a gear motor and is commercially available for either utility AC power or direct current (DC). If a DC motor is used it
10 can be connected by a cord to a vehicle type battery or to a portable rechargeable pack, preferably combined with switch controls.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3634

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL CAHN whose telephone number is (571)270-5616. The examiner can normally be reached on Monday through Friday (9 a. m. to 5 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DANIEL CAHN/

Examiner, Art Unit 3634

/KATHERINE W MITCHELL/

Supervisory Patent Examiner, Art Unit 3634